IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

-

WRIT PETITION NO : 21360 of 1994

Between:

M/s. Purna Chandra Corporation R.T.Road, Palakol, West Godavari Dist.,
rep. by its Managing Director, P. Satyanarayana.

..... PETITIONER

AND

1 Ministry of Textiles, Govt. of India, rep. by its Secretary,
Udyog Bhavan, New Delhi.
2 The Textile Commissioner, Ministry of Textiles,
Govt. of India, Post Box No. 11500, Bombay-400 020.
3 Deputy Director, The Cotton Textile Export

Promotion Council, Engineering Centre, 5th floor,

9th Mathew Road, Bombay-400 004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Certiorari to set aside the order No. 14/45/90-EP (T & J) I, dt. 7.12.92 of the 1st respondent and consequently direct the 1st respondent to decide the 2nd appeal dt. 23.11.89 afresh after giving opportunity to the petitioner.

Counsel for the Petitioner:MR.A.SATYA PRASAD

Counsel for the Respondents : MR.A.RAJASEKHAR REDDY

The Court made the following :

O R D E R:

The Order No.14/45/90-EP (T& J) I, passed by the first respondent on 07-12-1992 is assailed in this Writ Petition.

2. Third respondent passed an Order directing the petitioner to pay sum of Rs.1,08,890/- for not completing the course of export of laces. Against the said Order, he filed an appeal to the second respondent Textile Commissioner and the same was also dismissed on 16-11-1989. Aggrieved by the said Appeal, he filed second appeal to the first respondent-Ministry of Textiles Government of India. However, the grievance of the petitioner is that he sent communication to the first respondent to postpone the date of hearing as he was in Japan participating in Handicrafts Conference, but, however, the first respondent dismissed the second appeal observing as follows:

> *"After hearing the representative of the party and also on perusal of the contentions of the party in their Appeal and on the basis of connected documents/records etc., produced by the party in the course of personal hearing, the Committee rejected the Appeal."*

3. Thereafter, the petitioner filed an application to the first respondent stating that there was no personal hearing and the representative was not present and, therefore, the order is in violation of principles of natural justice. Acting on the said

Order, the first respondent passed a Corrigendum on 22-12-1992 deleting the words “in the course of personal hearing”. The petitioner submits that the said order of the first respondent on 07-12-1992 as amended by 22-12-1992 is illegal and contrary to Law.

4. The learned counsel for the petitioner submits that when he was not present and when no personal hearing was given, the impugned order could not have been passed. The said order is virtually amounts to non-application of mind.

5. I have heard the learned counsel for the Central Government in this regard.

6. As can be seen that the impugned order was passed without hearing the petitioner but the order denotes that the representative of the petitioner was present and the petitioner also given personal hearing, which is factually not borne by record. Under these circumstances, I am inclined to set aside the Order dated 07-12-1992 and also consequential order dated 22-12-1992 and direct the first respondent to hear the matter after giving proper opportunity to the petitioner.

7. Accordingly, the Writ Petition is disposed of directing the first respondent to dispose of the second appeal filed by the petitioner after hearing the petitioner. This exercise shall be done with a period of four months from the date of receipt of a copy of this Order.

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G.BIKSHAPATHY,J

Date : 30-09-2004

Prv/bsb

To

1 The Secretary, Ministry of Textiles, Govt. of India,
Udyog Bhavan, New Delhi.

2 The Textile Commissioner, Ministry of Textiles,
Govt. of India, Post Box No. 11500, Bombay-400 020.

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